

STATE OF CALIFORNIA  
Budget Change Proposal - Cover Sheet  
DF-46 (REV 08/15)

Fiscal Year 2016/2017	Business Unit 0530	Department California Health & Human Services	Priority No. 003
Budget Request Name 0530-400-BCP-BR-2016-MR		Program 0285-California Office of Health Information Integrity - CalOHII	Subprogram None




Budget Request Description  
Use, Disclosure & Protection of Specially Protected Health Information

Budget Request Summary


CalOHII requests \$800,000 spending authority for subject matter expert (SME) consultants on a one-year limited term basis. The funding is being provided by the California Health Care Foundation (CHCF). The SMEs will develop non-mandatory guidance to non-state organizations, local governments, providers, health information exchange (HIE) entities, and other stakeholders on compliance with federal and state laws pertaining to the use, disclosure, and protection of specially protected health information including mental health, substance abuse, HIV/AIDS, and behavioral health. This guidance will facilitate the exchange of sensitive information and better inform conversations about care coordination and data-sharing both within and outside of government.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed	
Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date
For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, or previously by the Department of Finance. <input type="checkbox"/> FSR <input type="checkbox"/> SPR Project No. Date:		

If proposal affects another department, does other department concur with proposal? ☐ Yes ☐ No  
*Attach comments of affected department, signed and dated by the department director or designee.*

Prepared By Elaine Scordakis 	Date 4/6/2016	Reviewed By	Date
Department Director Elaine Scordakis 	Date 4/6/2016	Agency Secretary 	Date 5/11/16

Department of Finance Use Only

Additional Review: <input type="checkbox"/> Capital Outlay <input type="checkbox"/> ITCU <input type="checkbox"/> FSCU <input type="checkbox"/> OSAE <input type="checkbox"/> CALSTARS <input type="checkbox"/> Dept. of Technology	
BCP Type: <input type="checkbox"/> Policy <input checked="" type="checkbox"/> Workload Budget per Government Code 13308.05	
PPBA 	Date submitted to the Legislature 5-13-16

## BCP Fiscal Detail Sheet

BCP Title: Use, Disclosure, and Protection of Specially Protected Health Information

DP Name: 0530-400-BCP-DP-2016-MR

### Budget Request Summary

	FY16					
	CY	BY	BY+1	BY+2	BY+3	BY+4
Operating Expenses and Equipment						
5340 - Consulting and Professional Services -	0	800	0	0	0	0
<b>Total Operating Expenses and Equipment</b>	<b>\$0</b>	<b>\$800</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Total Budget Request</b>	<b>\$0</b>	<b>\$800</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### Fund Summary

Fund Source - State Operations						
0942 - Special Deposit Fund	0	800	0	0	0	0
<b>Total State Operations Expenditures</b>	<b>\$0</b>	<b>\$800</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Total All Funds</b>	<b>\$0</b>	<b>\$800</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### Program Summary

Program Funding						
0285 - California Office of Health Information	0	800	0	0	0	0
<b>Total All Programs</b>	<b>\$0</b>	<b>\$800</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>



## Analysis of Problem

### A. Budget Request Summary

CalOHII requests \$800,000 spending authority for subject matter expert (SME) consultants on a one-year limited term basis. The funding is being provided by the California Health Care Foundation (CHCF). The SMEs will develop non-mandatory guidance to non-state organizations, local governments, providers, health information exchange (HIE) entities, and other stakeholders on compliance with federal and state laws pertaining to the use, disclosure, and protection of specially protected health information including mental health, substance abuse, HIV/AIDS, and behavioral health. This guidance will facilitate the exchange of sensitive information and better inform conversations about care coordination and data-sharing both within and outside of government. Budget Bill language will be needed to effectuate this proposal (see Attachment A).

### B. Background/History *(Provide **relevant** background/history and provide program resource history. Provide workload metrics, if applicable.)*

While CalOHII has developed guidance for state departments around the use and exchange of sensitive health information, the state has not produced guidance for non-state organizations, local governments, providers, health information exchange (HIE) entities, and other stakeholders. There are unclear areas in state law surrounding sensitive health information due to inconsistent language, outdated laws adopted before current technologies existed, lack of case law, high liability, lack of regulation, and no formalized policy or guidance from the State clearly explaining how the State interprets its laws. These non-state entities need guidance that clarifies state policy on sensitive health information to eliminate confusion and perceived barriers that serve as obstacles to exchanging this type of information. Most types of health information can be exchanged between providers for treatment purposes without consent from the patient. There are greater consent restrictions for substance abuse and other sensitive categories of information. State guidance synthesizing all the federal and state requirements with a unified interpretation of those laws and patient protections around sensitive health information will aid in the exchange of this information.

Health information sharing is frequently blocked due to the misunderstanding of state laws and inappropriate risk mitigation tactics.<sup>1</sup> Stakeholders need uniform policy guidance in an industry that has an absence of formal regulation. CalOHII is in the best position to provide guidance as it already produced similar guidance for state entities in the form of the Statewide Health Information Policy Manual (SHIPM).

The goals of this project are to:

- Standardize non-state entities' understanding and compliance with state and federal health information privacy, security, and patients' rights laws in narrative form.
- Address:
  - Sensitive categories of information, such as mental health, substance abuse, HIV/AIDS, and behavioral health.
  - Differences in various state laws and state vs. federal laws for privacy, security, and patient rights.
- Support data transparency by:
  - Increasing appropriate sharing of information to improve care coordination and health outcomes.
  - Decreasing cost of compliance and care.

CalOHII developed the SHIPM which provides step-by-step policy guidance for all state departments impacted by the Health Insurance Portability and Accountability Act (HIPAA). SHIPM is unique in that it melds both HIPAA and other federal and California State laws so that if state departments adhere to the SHIPM, they simultaneously comply with both state and federal laws. However, SHIPM applies only to state entities due to the necessary inclusion of laws specific to state department compliance. SHIPM is of limited use to local governments and

<sup>1</sup> [Report on Health Information Blocking](#), Office of the National Coordinator for Health Information Technology (April 2015); [Fine Print: Rules for Exchanging Behavioral Health Information in California](#), Manatt, Phelps & Phillips (July 2015).



## Analysis of Problem

non-state entities because of the inclusion of state specific laws. SHIPM is also a high level policy manual that sets the requirements for individual departmental policies, procedures, and compliance efforts.

### C. State Level Considerations

This proposal is consistent with CHHS' Let's Get Healthy California initiative, which promotes the Triple Aim of better health, better care, and lower costs.

Additionally, consistent statewide interpretation of patient health protection law and policy in these sensitive health information categories lays the groundwork for interoperability between state departments, health information exchanges, and other non-state organizations so that patient health information can be shared between providers and is available at the point of care.

### D. Justification

This proposal is necessary because it will help facilitate removing perceived barriers related to the exchange of sensitive categories of health information. In order to conduct a comprehensive review of state and federal laws related to sensitive categories of health information and develop State Health Information Guidance, subject matter expert consultants will:

- Manage and develop individual written guidance narratives.
- Facilitate stakeholder meetings and input.
- Research and draft individual written guidance narratives, and review and edit the narratives.

### E. Outcomes and Accountability *(Provide summary of expected outcomes associated with Budget Request and provide the projected workload metrics that reflect how this proposal improves the metrics outlines in the Background/History Section.)*

The guidance will provide clarification of state policy on sensitive health information to help eliminate perceived barriers that serve as obstacles to exchanging this type of information. This guidance will facilitate the exchange of sensitive health information and better inform conversations about care coordination and data-sharing both within and outside of government.

### F. Analysis of All Feasible Alternatives

Alternative 1: Approve the request for \$800,000 one-year spending authority to complete the guidance project.

Pros:

- Standardize understanding and compliance with state and federal health information privacy, security, and patients' rights laws in narrative form.
- Support data transparency by increasing appropriate sharing of information to improve health outcomes and decrease the cost of compliance and care.
- Aid in removing perceived barriers to exchanging sensitive health information.
- CalOHII has established work groups to facilitate the vetting of the guidance.

Cons:

- No identified negative consequences for this project.

## Analysis of Problem

Alternative 2: CalOHII State staff complete the guidance project utilizing current resources.

Pros:

- Given CalOHII's work on the SHIPM, CalOHII is the right entity to lead this work.
- CalOHII has established work groups to facilitate the vetting of the guidance.

Cons:

- Current CalOHII priorities and required activities would be delayed if state staff are shifted to work on this project.

Alternative 3: Not approve the request for \$800,000 spending authority to complete the guidance project.

Pros:

- No change to CalOHII's workload.

Cons:

- Continued misunderstanding and non-standardization of interpretation of state and federal laws will occur.
- Continued perceived barriers to the use and sharing of sensitive health information will occur.

### G. Implementation Plan

The process to procure will begin upon receiving spending authority for this project and receiving funds from the CHCF.

### H. Supplemental Information *(Describe special resources and provide details to support costs including appropriate back up.)*

N/A

### I. Recommendation

Alternative 1: Approve the request for \$800,000 one-year spending authority to complete the guidance project effective July 1, 2016.

Add New Item:

0530-017-0942—For Support of Secretary of California Health and Human Services, payable from the Special  
Deposit Fund ..... 800,000

Schedule:

(1) 0285-California Office of Health Information Integrity (CALOHII)..... 800,000